THE HONOURABLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO. 14386 OF 2006

DATED: 14-07-2006

BETWEEN:

Karnati Nageswara Rao
S/o. Venkateswarlu …
Petitioner

And

The State Election Commission,
3rd Floor, Buddah Bhavan, M.G.Road,
Secunderabad and two others …
Respondents

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO. 14386 OF 2006

ORDER:

Heard the counsel.

The present writ petition is filed for a writ of Mandamus declaring the action of R1 in not issuing changed guidelines to R2 and R3 for acceptance of nominations in terms of the changed guidelines as illegal, arbitrary and in violation of Article 14 of the Constitution of India and consequently, direct the respondents to issue necessary orders on eligibility of the petitioner in terms of the changed guidelines for contesting in the ensuing elections and to pass such other suitable orders.

The main grievance of the petitioner is that recently, the first respondent-State Election Commission conducted an all party meeting with their representatives and after having a lengthy discussion and considering the views expressed by the representatives of several political parties, the first respondent released certain guidelines duly changing certain conditions which are in force for the last several

years. It is also stated that on behalf of the first respondent, its Secretary Sri G.N. Rao in the press conference released the same. It is stated that as per the said press release, apart from several qualifications and disqualifications for contesting in the ensuing elections, the first respondent held that unless there is an evidence adoption is not valid and in this context, it is stated that one can easily presume that when there is an evidence of adoption of the child, the said individual is certainly eligible for contesting in the ensuing election and the same is applicable to the petitioner's case. It is also stated that due to adoption of his first child at the time of her birth, the petitioner is having only two children and further elections were made in relation to Section 19(3) of the A.P. Panchayat Raj Act, 1994.

The learned counsel representing first respondent - State Election Commission had placed before this Court the clarifications in relation there to. The learned counsel submits that the press note need not be taken into serious consideration. The clarifications are as hereunder:

14	A person having one child in first delivery and twins in second delivery can contest in the elections	A person who is having one child in first delivery and twins in second delivery is not disqualified to contest if the twins born after 30-05-1995. The Government have power to exempt him from this disqualification under section 19(3) of the APPR Act, 1995, which he may seek from Government.

Reliance also was placed on F.M. No.871/ SEC-B1/2006 dated 16-06-2006, the fax message to the Chief Executive Officer and Additional District Election Authority, Zilla Parishad, Adilabad which reads as under:

> "With reference to your Fax Message No.P5/1401/2006, dt.15-06-2006, it is clarified that the candidate who is having one child in 1st delivery and twins in Second delivery is not qualified to contest if

the twins born after 30-05-1995. The Government have power to exempt him from this disqualification under section 19(3) of the APPR Act, 1994, which he may seek from the Government."

Reliance also was placed on LR No. 893/SEC-B1/2006 addressed to Sri A. Jagadeesh, Chief Executive Officer, dated 16-06-2006 wherein it was stated as hereunder:

Sl. No.	Points	Clarifications
1	If Twins are born even during the crucial date i.e. in between 21st April, 1994 and 20th April, 1995 and after the crucial date to the candidate who has filed nominations. In this case whether twins can be taken as one child or two children.	If twins are born within one year from the date of the commencement of the AP Panchayat Raj Act, 1994, they shall be taken as two children for the purpose of interpreting number of children under section 19(3) of A.P. Panchayat Raj Act, 1994.
2	If the candidate is a Member or a President in a Water User Association, to contest as MPTC/ZPTC.	President or Member of a Water User Association is disqualified for contesting elections to MPTC/ZPTC under section 18 read with Sections 156 and 184 of A.P. Panchayat Raj Act, 1994.

Reliance also was placed on LR No.910/SEC-B1/2006 dated 17-06-2006 wherein it was stated

"1. Under Section 18 of the Andhra Pradesh Panchayat Raj Act, 1994, any office bearer or any body constituted under a law made by the State Legislature is disqualified to contest Panchayat Raj Elections. The trust board to a charitable or religious institution is appointed under section 15 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, which is the law enacted by the State Legislature. Therefore, the Chairman and members of the trust board appointed under the said Act are disqualified.

2. If a person is having more than 2 children, even though in the second delivery twins are born, he is disqualified. However, he can file nomination to contest elections if the Government gives exemption under section 19(3) for having more than 2 children to contest elections."

The learned counsel representing the first respondent would submit that except these clarifications nothing else had been issued in relation to this aspect. The said clarifications referred to supra are hereby recorded and the statement made by the counsel representing the first respondent also hereby recorded.

In the light of the same, writ petition is disposed of. No order as to costs.

P.S.NARAYANA, J.

Dated: 14-07-2006
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